

CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation

Biweekly Report—Period Ending January 15, 2000

Kathpal Technologies, Inc. v. DOC, B-283137-3, Computer & Hi-Tech Mgmt, Inc. v. DOC, B-283187-4

The GAO decision issued on December 30, 1999, sustained the protest. GAO held that the agency improperly excluded protestors' technically acceptable offers from consideration for award based upon the ratings of a single technical subfactor without considering price or evaluating the complete proposals under all of the RFP factors. GAO also held that in not allowing technically acceptable offerors to make oral presentations as part of their technical proposals, the agency acted inconsistently with the RFP provision that all offerors would be afforded the opportunity to make oral presentations. As corrective action, GAO recommended: (1) that the agency allow all technically acceptable offerors to make an oral presentation, including the protestors, or (2) amend the RFP to inform offerors that an oral presentation would not be considered as part of their proposals. If the agency chose the latter, we were instructed to amend the RFP and solicit revised proposals. The agency was also instructed that either way, we are to re-evaluate all proposals against the RFP criteria, adequately document the relative strengths and weaknesses and select awardees through meaningful consideration of all evaluation criteria.

The agency has decided to request reconsideration and seek modification of the remedy. The request is due by COB January 13. The recommended modification is that the agency be allowed to establish a competitive range after evaluation of all proposals against all evaluation criteria, including price. Thereafter, those offerors who make the competitive range will be given an opportunity to make an oral presentation. Next, recommendations will be made to the SSA's for source selection. The grounds for the agency's request is that establishment of a competitive range is more practical and efficient and in the best interests of the government. (Terry H. Lee)

ETE v. US—98 CV 7237 EDNY

In this EASC ship repair appeal, the Plaintiff has invoked the admiralty jurisdiction of the United States District Court. The parties, with the concurrence of the presiding Judge, have agreed to attempt to resolve this matter through mediation and non-binding early evaluation.

Judge Allan Goodman of the GSBCA has agreed to serve as the neutral for this ADR proceeding. The mediation has been scheduled in New York during the week of March 7, 2000. The parties will be submitting position papers to Judge Goodman on or before January 28, 2000. (Ken Lechter)

NCEP Supercomputer

We met with procurement and NCEP staff to discuss procurement issues relating to NCEP's current and future supercomputing needs. NCEP is scheduled to receive substantial additional funding for a new climatologic initiative in FYs 2000 and '01. In view of this we advised that the current contract could be extended for an additional two years to permit and utilize an upgrade to its existing system rather than conduct a new competition. (Mark Langstein)

DRC, Inc. v. DOC

Fred Kopatch is waiting to receive DRC's Response to our Objection to DRC's Application for Attorneys' Fees and Costs under the Equal Access to Justice Act. DRC's response is due on January 22, 2000.

CLD "Time to Complete"—4.3 Days

Actions by Contract Law Division during Period from 01/02/2000 01/15/2000

Bureau	Received	Completed
BXA	1	0
CENSUS	2	2
NIST	13	13
NOAA	6	7
Totals	22	22

Contract Law Division—Client Workload
Period Ending 01/15/2000

